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Measures to eliminate international terrorism

Letter dated 16 June 2003 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General

I have the honour to request that the present letter and its annex be circulated as a General Assembly document under agenda items 109 and 160.

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Annex to the letter dated 16 June 2003 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General

The Republic of Cuba believes that the Declaration on Measures to Eliminate International Terrorism, hereinafter referred to as the Declaration, as set forth in General Assembly resolution 49/60 on measures to eliminate international terrorism, is a fully valid, up-to-date instrument for combating the hateful scourge of terrorism.

Although the General Assembly and other United Nations bodies including the Security Council have subsequently adopted many resolutions on the topic, none of them appears to have the scope and impact which characterized the Declaration. The same is true of the various binding legal instruments on the subject, which, important as they are, are essentially partial in nature and do not have the Declaration's depth in terms of principles, aims and concepts.

I. Implementation of the Declaration by the Republic of Cuba

The Republic of Cuba, as can be seen in its determined political will to help fight international terrorism, has fully implemented and continues to implement the principles, aims and concepts enshrined in the Declaration.

Cuba reiterates its most profound condemnation of all acts, methods and practices of terrorism in all its forms and manifestations, by or against whomever wherever committed and whatever the motives, including acts in which States are directly or indirectly involved.

In compliance with the Declaration, Cuba reiterates that it has never allowed, nor will it ever allow, its territory to be used for committing, planning or financing terrorist acts against another State.

Cuba also strongly condemns the practice of State terrorism, which has been rejected by the international community in the Declaration in the following words: "States must refrain from organizing, instigating, assisting or participating in terrorist acts in territories of other States, or from acquiescing in or encouraging activities within their territories directed towards the commission of such acts".

For Cuba, these postulates are fully valid and closely in keeping with its unshakeable position in condemning all acts, methods and practices of terrorism in all its forms and manifestations.

Cuba considers terrorism to be a reprehensible and unacceptable phenomenon, which must be fought by the international community as a whole in a context of close cooperation and of respect for the Charter of the United Nations, international law and international humanitarian law.

In that respect, Cuba reaffirms that it is for the United Nations alone to lead and coordinate an international campaign against terrorism. The effort to combat this phenomenon cannot be conceived or carried out solely on the basis of one country's national interests and foreign policy ambitions; it must constitute a bastion of unity for the international community as a whole in its efforts to eradicate this evil from the face of the earth.

Regardless of the role that other United Nations organs such as the Security Council may play in the fight against terrorism, Cuba wishes to reiterate that the General Assembly is the only organ having the required mandate and characteristics to effectively carry out this work and garner the international cooperation that is essential to a task of this scope.

In the current situation, marked by one great Power's blatant intention to impose universal hegemony through the use of its enormous military might and by its consequent manifest disregard for the norms and principles of international law and the Charter of the United Nations, Cuba feels it necessary to make abundantly clear that it totally condemns the use of the fight against terrorism as a pretext to justify interference in the internal affairs of other States and aggression, and to question the national sovereignty of States. Cuba once again affirms its stance against terrorism and war.

As demonstrated by its unswerving political will to help eradicate terrorism, Cuba has always maintained a constructive attitude towards any legitimate, feasible initiative aimed at fighting terrorism.

In this context, Cuba has drawn attention innumerable times to the urgent need to adopt a comprehensive convention on international terrorism that will help fill the existing lacunae in United Nations instruments on the prevention and repression of international terrorism, in keeping with paragraph 7 of the Declaration.

This goal, which must never be abandoned by the international community in its tireless effort to combat this evil, has unfortunately been thwarted.

Cuba considers that a comprehensive convention on international terrorism should necessarily contain a clear, precise definition of the criminal offence of terrorism, covering all types and forms of terrorism, envisaging all the material and mental elements that make up a terrorist act and entailing responsibility on the part of both individuals and legal persons.

The absence of a definition of the crime of international terrorism in the relevant legally binding instruments adopted by the international community has facilitated the manipulation and use of politically motivated interpretations by some States, while also encouraging the selective application of these instruments.

Cuba, a victim of innumerable terrorist acts since 1959 that have been conceived, organized and financed with total impunity from the territory of the United States, often by or with the express consent of the United States Government, wishes to reaffirm its conviction that a further definition is needed of terrorist acts committed by a State with the intent of destabilizing another by sponsoring, financing, training or protecting, in or outside its territory, terrorist elements who attack another State. Progress in this direction must be made soon in order to effectively promote an appropriate legal framework to deal with this phenomenon.

Accordingly, Cuba finds it unacceptable that the activities of a State's armed forces which are not regulated by international humanitarian law should be excluded from the scope of application of a future comprehensive convention, especially since Cuba views international terrorism as indeed an unlawful form of behaviour that may be committed by States. Such an exclusion would be contrary to the spirit of the Declaration and would serve as a pretext for State actions intended to destabilize another State.

Cuba also supports the position taken by third world countries that a comprehensive convention on international terrorism must establish a clear distinction between terrorism and the legitimate struggle of peoples for their independence against foreign domination and in defence of their right to self-determination.

In its desire to contribute to the full implementation of the Declaration, Cuba will continue to stress the need to adopt a comprehensive convention on international terrorism having the aforementioned characteristics. Cuba believes that the adoption of such a convention would be an effective means of dealing with this scourge, promoting the progressive development of international law and providing the needed reinforcement of the legal framework established in existing sectoral treaties on the subject, in order to rectify and overcome the omissions and deficiencies of these treaties.

Cuba also rejects the manipulation by some States of the theory of the inherent right to self-defence in order to justify the commission of terrorist acts, invoking the so-called right to "preventive defence". The purpose of such manipulation is none other than to attempt to legitimize aggression, the interference in the internal affairs of other States and State terrorism.

In keeping with the spirit of the Declaration, Cuba reaffirms its complete willingness to cooperate bilaterally with any State in the fight against terrorism, provided that it is on the basis of respect for the principle of equal sovereignty of States and non-interference in their internal affairs.

Cuba thoroughly rejects the unilateral practice of some States, contrary to the spirit of the Declaration and the principles of international law and the Charter of the United Nations, of arrogating to themselves the right to issue "certifications" and "lists" of countries that supposedly sponsor international terrorism. Cuba considers this to be a spurious, politically motivated and fundamentally flawed exercise. Those who prepare such lists have absolutely no moral authority to set themselves up as international arbiters with regard to terrorism or any other matter.

The absurd inclusion of Cuba on the list, prepared annually by the United States Government, of States that supposedly sponsor international terrorism, is a response to United States domestic policy issues related to petty electoral motives in the state of Florida, where a terrorist mafia acts with impunity and has organized, financed and carried out hundreds of terrorist acts against the Cuban nation.

In the past 44 years, the United States Government has never ceased to invent flimsy excuses for its continued aggressive policy against the Cuban people and their Revolution. In that context, false accusations of an alleged link between Cuba and terrorism have been among the most highly manipulated arguments in that Government's attempt to undermine the prestige and moral authority of the Cuban Revolution.

It is the United States Government that is carrying out a policy of genocide against the Cuban people, which has taken the form of an inhumane and irrational blockade against our country for more than 40 years; this blockade has been condemned on numerous occasions by the international community, as can be seen

in the 11 resolutions adopted by the United Nations General Assembly on this topic.[1]

It is the United States Government that has maintained a policy of support, acquiescence and tolerance of terrorism committed against Cuba from its territory for over 40 years, in order to deprive the Cuban nation of its right to self-determination.

II. Principal actions taken in recent years by Cuba to combat terrorism[2]

The steadfast political will which has characterized Cuba since 1959 in its commitment to prevent and combat the phenomenon of terrorism has been demonstrated in the actions it has taken over the past four decades. The following are the principal measures adopted recently:

- On 4 October 2001,the National Assembly of People's Power took a decision requesting the Council of Ministers and the State Council to proceed to the approval and ratification, respectively, of all the international treaties on the subject of terrorism to which Cuba was not yet a party. Cuba accordingly became one of the first States to heed the appeal by the United Nations Secretary-General requesting all States to become parties to the 12 international treaties on terrorism;

- On 20 December 2001, during the eighth session of the Fifth Legislature, the National Assembly of People's Power unanimously approved the Acts of Terrorism Act, the purpose of which is to codify and penalize terrorist and terrorist-related actions on the basis of the existing Penal Code, and of the international conventions adopted within the framework of the United Nations to which Cuba is a party. The Act enhances and updates current penal provisions by seeking to prevent and penalize acts committed with explosive or lethal artefacts, chemical or biological agents, or other devices or substances; hostage-taking; acts against internationally protected persons; acts against the safety of maritime navigation, civil aviation and airports and all other acts against safety in the air or at sea, including those against the safety of fixed platforms located on the continental shelf or an island. This Act broke new ground by criminalizing and penalizing terrorist acts committed with the use of computers and information techniques. By adopting this Act, Cuba brought its legislation up to date and made it all-encompassing, thereby enabling it to confront, in an effective and coherent manner, all forms and manifestations of terrorism and other related offences;

- Besides carrying out legislative action, Cuba has adopted a number of legal-administrative measures and actions which are designed to prevent and detect

[1] See resolutions 47/19 of 24 November 1992, 48/16 of 3 November 1993, 49/9 of 26 October 1994, 50/10 of 2 November 1995, 51/17 of 12 November 1996, 52/10 of 5 November 1997, 53/4 of 14 October 1998, 54/21 of 9 November 1999, 55/20 of 9 November 2000, 56/9 of 27 November 2001 and 57/11 of 12 November 2002.

[2] The two reports submitted by Cuba to the Counter-Terrorism Committee (S/2002/15 and S/2002/1093), in accordance with paragraph 6 of Security Council resolution 1373 (2001), deal in far greater depth and detail with the measures which Cuba had adopted to combat terrorism.

acts of terrorism and other related international offences. These include the many instructions and decisions issued by the Central Bank of Cuba to prevent money-laundering and the financing of terrorism, together with the action taken by the National Customs Service and the Ministry of the Interior to enhance surveillance and inspection in order to bar terrorist elements from entering the national territory;

- Cuba has implemented in full Security Council resolution 1373 (2001). On 27 December 2001, the Security Council's Counter-Terrorism Committee received a detailed and painstaking report, which was issued as an official document on 2 January 2002 (S/2002/15). The report reflects the positions taken by Cuba on the subject and provides a wealth of information about the penal and non-penal measures and actions which Cuba adopted, both before and after resolution 1373, for the prevention and suppression of terrorism. In addition, on 24 September 2002, Cuba submitted to the same Committee a supplementary report, issued as an official document on 30 September 2002 (S/2002/1093), which dealt in greater depth with some of the issues discussed in the initial report. Cuba is currently preparing answers to the questions posed by the Counter-Terrorism Committee regarding its supplementary report and will submit them at the appropriate time, in accordance with the schedule established;

- Cuba has unceasingly sought forms of bilateral cooperation with which to confront international terrorism on the basis of mutual respect and the sovereign equality of States. In this regard, the United States Government, using false and irrational arguments, rejected a Cuban proposal for the conclusion of a bilateral programme to combat terrorism. The proposal was made on 29 November 2001 and was reiterated on 3 December 2001, on 12 March 2002 and again on 17 December 2002, on the occasion of the nineteenth round of migration talks between the two Governments.

III. Cuba as a victim of international terrorism

For more than 40 years the people of Cuba have been subjected to countless terrorist actions, the vast majority of which have been planned and organized in United States territory, with support, protection and funding from successive United States Governments. As a result of these acts, the Cuban people have paid a heavy toll in human life, suffering a total of 3,478 deaths and 2,099 physical injuries. The Cuban nation has also paid a high price in economic terms owing to persistent acts of sabotage, and even biological attacks, of which it has been the target throughout its defence of its own sovereignty and self-determination.

It is common knowledge that countless terrorist organizations operate from United States territory against Cuba with total impunity and that notorious and confessed criminals circulate freely in the streets of the United States. They include such recognized terrorists and murderers as Luis Posada Carriles, Orlando Bosch, Gaspar Jiménez Escobedo, Pedro Remón, Guillermo Novo Sampoll, Leonel Macías, Nazario Sargent. Francisco José Hernández Calvo, José Basulto, Rubén Dario López Castro, Roberto Martín Pérez, Silverio Rodríguez Pérez, Rodolfo Frómeta, Ramón Leocadio Bonachea, William Chávez, and so on ad infinitum. These individuals bear

the responsibility for the loss of Cuban lives and for the suffering in the thousands of homes which have lost family members as a result of their unscrupulous actions.

The United States Government's policy of support for terrorism against Cuba, the violation by the United States of the migration agreements which the two Governments have signed in order to ensure legal, orderly and safe migration, the existence of United States legislation which openly encourages illegal emigration from Cuba under the so-called Cuban Adjustment Act, the United States authorities' benevolent treatment of those who hijack Cuban boats and aircraft, even though such acts are criminal offences according to international terrorism instruments to which the United States is a party — all this is the direct cause of the countless terrorist actions committed in Cuba by unscrupulous individuals, who have endangered human life and even killed people in order to hijack boats or aircraft and head for the United States. The United States Government has made not the slightest attempt to surrender any of the persons sought by Cuban justice.

These facts are further proof of the lack of political will on the part of the United States Government to punish the crime of terrorism when it is committed against countries which maintain their own independent positions and do not subscribe to United States policies.

Cuba considers that trying to assume the leadership role in the international campaign against terrorism, yet at the same time providing support and a safe haven whenever a terrorist strikes at the Cuban Revolution, is one more example of the double standard espoused by the United States Government when dealing with international terrorism.

The most perfect example of such cynicism and double standard on the part of the United States Government in its alleged international campaign against terrorism is the unfair conviction by a venal Federal court in Miami of the Cuban nationals Gerardo Hernández, Ramón Labañino and Fernando González and the United States nationals Antonio Guerrero and René González. The only "crime" of which these individuals were guilty was monitoring the actions of several terrorist organizations that operate in the United States against Cuba and protecting the Cuban people, and also the United States people, against the scourge of terrorism.

During their more than four years of unjust imprisonment in United States jails, these young men have had their most basic human rights violated on numerous occasions. Among other things, they were subjected to solitary confinement for a continuous period of 17 months, suffered inhumane and degrading treatment, were cruelly shut away in punishment cells for no reason and were deprived of contact with their lawyers at the time they were preparing their appeal to the Court of Appeals in Atlanta. Moreover, countless obstacles were put in the way of visits by family members, including a ban on visits by two of the wives, a situation which Cuba duly denounced at the United Nations, as can be seen from documents A/56/969[3] of 5 May 2002, A/56/1031[4] of 3 September 2002 and A/57/760[5] of 18

[3] Letter complaining that the entry visa to the United States of Olga Salanueva was revoked.

[4] Letter complaining about the treatment of Adriana Pérez upon her arrival in the United States.

[5] Document to which are annexed a declaration by the Ministry of Foreign Affairs of Cuba concerning the five Cuban patriots and a note by the Working Group against Terrorism of the National Assembly of People's Power concerning the situation of Gerardo Hernández.

March 2003, which were circulated under the agenda items "Human rights questions" and "Measures to eliminate international terrorism".

During the court proceedings these persons experienced numerous violations of their lawful right to receive a just and impartial trial, with all the procedural guarantees established under international law and in the United States law itself. Furthermore, care was taken to ensure that the subject of terrorist actions against Cuba did not come up during the trial. Lastly, the Government asked the court not only to impose the severest penalties possible but also to add a further penalty, in case they were ever released, to ensure that they could not take further action against the terrorists who operate from Miami against Cuba:

> *"As a further special condition of their supervised release: the defendant is prohibited from associating with or visiting specific places where individuals or groups such as terrorists ... are known to be or to frequent".*[6]

At the same time, in spite of the existence of the international campaign against terrorism, the Miami-based terrorist mafia of Cuban origin continue their attempt to abort the trial in Panama of the terrorists Luis Posada Carriles, Gaspar Jiménez Escobedo, Guillermo Sampoll and Pedro Remón Rodríguez.

As will be recalled, these notorious terrorists planned, inter alia, the emplacement of highly destructive plastic explosives in an auditorium of the University of Panama with the intention of assassinating the President of Cuba, Fidel Castro Ruz, who was in Panama for the Tenth Ibero-American Summit. Had the plan not been thwarted thanks to the intervention of Cuban authorities, the explosives would have killed hundreds of students, staff and others due to participate in the ceremony at which the Cuban leader was scheduled to speak.

As Cuba has reported on various occasions since the aforementioned terrorists were first arrested, mafia groups based in Miami and Panama have not let up in their efforts to rescue the individuals in question from the action of the justice system. With this end in view, the notorious agents of the Miami-based terrorist mafia have travelled many times to Panama.

They have been planning a possible flight of the individuals to a country of the region, and they have been manipulating the media, so that these terrorists are being portrayed as persecuted by the Cuban Government for political reasons. Substantial sums of money have been sent from the United States to pay defence and other trial-related costs.

Cuba trusts that these individuals will not be treated with the impunity which they and their friends are seeking and that their actions will be judged severely, in proportion to the magnitude and gravity of their terrorist behaviour, which has disrupted lives and damaged property in more than a score of nations.

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[6] Excerpt from the court transcript of the trial before Judge Joan A. Lenard, 14 December 2001.

IV. Terrorist actions committed against Cuba in the last 10 months

6 August 2002

A Cuban boat, "Plástico 16", belonging to the port of La Coloma, Pinar del Río, was hijacked by five individuals and sailed to the United States. The Minister for Foreign Affairs of the Republic of Cuba submitted diplomatic note No. 1428 of 27 August 2002 requesting the Government of the United States to return the hijackers. That request was not met. On the contrary, months later the hijackers were released in the United States.

26 October 2002

At 1 a.m. seven individuals entered the Manoplas anchorage in the municipality of Santa Cruz del Sur, Camagüey Province, tied up the guards and took two boats, "Alecrín" and "Mabel", for the purpose of leaving the country illegally. The guards were taken on board the ships and left at the Revienta Caballo estuary. The hijackers then went to Belize, where they are currently in detention.

11 November 2002

Several individuals hijacked an AN-2 fumigation plane for the purpose of travelling to the United States. The Ministry of Foreign Affairs of Cuba submitted diplomatic notes No. 1778 of 2002 and No. 180 of 2003 requesting the Government of the United States to return the hijackers and the aircraft. The United States authorities did not even bring charges against the hijackers, whom they released four days after their arrival in the country.

26 November 2002

Between 4.10 and 4.30 a.m., on the "Calderón" road in the Dos Ríos shantytown, municipality of Palma Soriano, Santiago, Cuba, three individuals carrying firearms attempted to hijack an AN-2 agricultural plane, number plate CU-1170, for the purpose of travelling to the United States. The individuals threatened one of the guards with a firearm, relieved him of his weapon and wounded another guard in the chest and arm after he shot at the hijackers.

In addition, the fuel plant operator and supplier of the aircraft were captured, threatened, beaten and attached to the boat's landing gear by the hijackers, who tried to remove the padlock from the propeller and attempted in other ways to damage the security devices. On failing to achieve their purpose, the hijackers took the guards' weapons and fled. They were later arrested by the Cuban authorities, with the exception of one, who died from an injury sustained during the incident.

29 January 2003

On Isla de la Juventud a ferrocement boat, "Cabo Corrientes", was hijacked and sailed to the United States. The Cuban authorities requested the Government of the United States to return the hijackers. No reply has been received to date. On the contrary, the United States authorities immediately released the hijackers.

3 February 2003

At 6.05 p.m. a Cuban border patrol unit saw the list five vessel "El Cañon", with 15 persons on board, attempting to leave the country illegally through the bay of Santa Cruz del Sur, Camagüey.

At 10 p.m. the ship collided with ferrocement boat 358, belonging to the Ministry of Fisheries, some 14 miles south of the province. As a result of the collision all the individuals on board (10 men, four women and one child) fell overboard and were rescued by the ferrocement boat's crew.

Once rescued, the individuals in question, using a machete and fishing devices, forced the ferrocement boat's crew back out to sea, seized the boat and continued sailing until they reached Honduras.

6 February 2003

A border patrol boat was hijacked by four individuals and taken to the United States. The Cuban Government requested the United States Government to return the hijackers. However, the United States Department of State has not yet replied to the Cuban request, and it is not known whether the United States authorities have pressed charges against the hijackers.

19 March 2003

At 7.24 a.m., six individuals accompanied by their relatives hijacked to the United States a DC-3 aircraft, number plate CUT-1192, belonging to the Cuban company "Aerotaxi" and servicing flight No. 877 (Nuevo Gerona-Havana), with 36 persons on board, including four children. The perpetrators threatened the crew and passengers with knives and other sharp objects, seriously endangering their lives.

31 March 2003

At 9.22 p.m., an individual, accompanied by his wife and son, allegedly using a hand grenade, hijacked an AN-22 aircraft belonging to Cubana de Aviación, servicing flight CUB-705 (Nueva Gerona-Havana), with the intention of going to the United States. Four crew members and 47 passengers, including five children, were on board. The perpetrator threatened to explode the aircraft with all the hostages on board if he was not taken to United States territory, thus seriously endangering the lives of the persons in the aircraft.

2 April 2003

In the early morning 11 individuals, who were acting as an organized group and had a child with them, boarded and hijacked a passenger ferry in the port of Havana with the intention of travelling to United States territory. The perpetrators seized control of the ship by threatening the crew and passengers with a firearm and knives and held them hostage for nearly 24 hours, without access to drinking water, medicines or food, thus seriously endangering their lives and physical integrity. There were 36 passengers on board, including one child, and four foreign citizens.

After some complicated operations the Cuban authorities managed to capture the individuals in question, whose acts were severely punished by the competent

courts, in accordance with Cuba's criminal legislation and with respect for the internationally recognized guarantees of due process.

The accused received severe penalties: three were sentenced to death and four to life imprisonment, and the remaining four to prison terms of 30 years, five years, three years and two years respectively.

10 April 2003

In the special municipality of Isla de la Juventud, eight individuals armed with knives attacked an army private who was performing his border patrol service in a military unit, tied him up and took his AKM rifle and three cartridges, with the intention of going to Rafael Cabrera Mustelier airport to hijack the aircraft covering flight No. 704 CUT 1236 with a total of 47 passengers on board, including a four-year-old child.

The eight persons detained in connection with these events acknowledged their intent to meet in the airport waiting room moments before the landing of the last Havana-Nueva Gerona flight of the day and, after allowing about 10 passengers to disembark, to break the window on the runway side and forcibly board the aircraft, taking hostage the passengers still inside the aircraft and its crew, and then to demand to be taken to United States territory.

These individuals were punished for the offences of terrorism and robbery with violence. Five of them were sentenced to life imprisonment, one to 30 years' imprisonment, one to 25 years' imprisonment and one to 20 years' imprisonment.

Because of the severity and increasing frequency of such actions, openly promoted by the United States Government's policy of encouraging illegal immigration from Cuba, and the fact that they are part of a far-reaching plan designed to destabilize the country, create a migration crisis and escalate tensions between Cuba and the United States, which would place the security of the country and the entire region at risk, the Cuban courts were forced to impose severe criminal penalties on those responsible for these incidents and even to impose the death sentence on some of the more violent terrorists arrested. The Council of State of the Republic of Cuba upheld these sentences with sorrow but convinced of its responsibility to protect the peace and security of its people

The Government of the Republic of Cuba has always tirelessly exercised its right to self-defence against such actions and will continue to do so in the future.